

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$5,019.35 for date of service 2-23-01.
- b. The request was received on 2-20-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC-60 and Letter Requesting Dispute Resolution
 - b. UB-92s
 - c. EOBs
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Based on Commission Rule 133.307 (g) (4), the Division notified the insurance carrier Austin Representative of their copy of the request on 7-2-02. The Respondent did not submit a 14 day response. However, the Carrier did submit a 3 day response to the initial request for dispute resolution. Therefore, all of the information will be reviewed and a decision will be rendered accordingly.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: May 17, 2002:

“The date of service involved in this dispute was from February 23, 2001 for treatment regarding the above-referenced claimant's work-related injury. The Carrier denied payment with payment exception code ‘M’ for some of the items provided in the UB-92, which were Fee Codes with a ‘MAR’ and treatment codes without a ‘MAR’.”

2. Respondent: No position statement was noticed in the 2-26-02 response.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 2-23-01.
2. The provider billed a total of \$6,192.35 on the date of service in dispute
3. The carrier reimbursed a total of \$1,118.00 and its EOB has the denial “M – IN TEXAS, OUTPATIENT SERVICES ARE TO BE PAID AS FAIR AND REASONABLE”.
4. Total Amount remaining in dispute \$5,019.35.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Commission Rule 133.307 (g)(3)(D) requires the provider to supply “...documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement...”. The provider has not submitted documentation to support their position that the fee charged meets Commission Rule 133.307 (g)(3)(D).

Section 413.011 (b) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

The provider has submitted reimbursement data. The provider has submitted several EOBs from this carrier’s medical audit company reflecting various reimbursement amounts.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine what would be fair and reasonable reimbursement for the services provided. Regardless of the carrier’s application of a methodology, lack of methodology, or response the burden is on the provider to show that the amount of reimbursement requested is fair and reasonable. The willingness of some carriers to provide reimbursement at or near the billed amount does not necessarily document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011(b) of the Texas Labor Code. Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement

MDR: M4-02-2094-01

The above Findings and Decision are hereby issued this 9th day of August 2002.

Lesa Lenart, RN
Medical Dispute Resolution Officer
Medical Review Division

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